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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/810,561	03/29/2004	Teresa Cook	1306-01	8294

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EXAMINER

SALDANO, LISA M

ART UNIT PAPER NUMBER

3673

DATE MAILED: 01/12/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PL

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/810,561	COOK, TERESA	
	<b>Examiner</b>	<b>Art Unit</b>	
	Lisa M. Saldano	3673	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>3/29/2004</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 112*

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claim 1 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

More specifically, claim 1 recites “wherein said fitting straps preferably comprises first and second straps...and at least one connector...” It is not clear if the applicant intends to positively claim first and second straps as part of the claimed invention in claim 1 or not. Furthermore, the applicant goes on to recite “and optionally adjustment means...” Again, it is not clear whether the applicant is positively claiming adjustment means. The examiner suggests that limitations intended to be optional to the main invention be claimed in dependent claims.

For purposes of prior art examination, the claims have been examined as best understood. As currently written, claim 1 does not positively require first and second straps, a connector or adjustment means.

### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

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A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Barnes (5,243,724).

Regarding claim 1, Barnes discloses a multi-purpose baby wrap 10,30 that may be used as a blanket, bunting, pad or carrier sling. Barnes discloses a pocket 20,40 that comprises a front panel. Barnes further discloses a back panel or blanket 11. The panels define an opening. Barnes further discloses straps 18,19 on the panels and a Velcro strip on the straps that functions as a connector to attaching the straps to one another.

5. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Burns et al (4,124,908).

Regarding claim 1, Burns et al discloses a rescue and transportation device 10 that is capable of being used as a slumber bag. Burns et al disclose a cover portion having front panel (24,26) and back panel 12. The panels define an opening (see Fig.1). Fitting straps 28 are located near the opening to partially close the opening.

6. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by Hazen (6,105,168).

Regarding claim 1, Hazen discloses a bag-type garment 20 for keeping a child warm comprising a front panel 28 and back panel 30, which define an opening. Straps (58,60,62,64) are located at or near the opening and contain loop and hook strips (68,70,72,74) that are fully capable of partially closing the opening. The fitting straps comprise first and second straps and the loop and hook strips function as a connector for releasably attaching the straps together.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Hazen (6,105,168) in view of Barnes (5,243,724).

Hazen discloses a bag-type garment 20 for keeping a child warm comprising a front panel 28 and back panel 30, which define an opening. Straps (58,60,62,64) are located at or near the opening and contain loop and hook strips (68,70,72,74) that are fully capable of partially closing the opening. The fitting straps comprise first and second straps and the loop and hook strips function as a connector for releasably attaching the straps together. Hazen discloses that the straps may be used to connect the garment to a stroller pole, wagon support, or the like or to attach the garment to the structures (see column 3, lines 25-35).

Regarding claim 3, the straps (58,60,62,64) are located at the joint of the front and back panels thereby being connected to both the front and back panels.

Regarding claim 4, the straps are oriented as to be essentially parallel to the edge of the opening (See Fig.2).

Regarding claims 5 and 6, the front and back panels are joined to one another around their circumference except at the opening. A larger panel is folded to form the front and back panels and a second end is joined by zipper 82.

However, Hazen fails to explicitly disclose the option of providing adjustable means for adjusting the length of the straps.

Barnes discloses a multi-purpose baby wrap 10,30 that may be used as a blanket, bunting, pad or carrier sling. Barnes discloses a pocket 20,40 that comprises a front panel. Barnes further discloses a back panel or blanket 11. The panels define an opening. Barnes further discloses straps 18,19 on the panels and a Velcro strip on the straps that functions as a connector to attaching the straps to one another. Barnes further discloses straps 21,22 on the panels that have mating connector devices 16. Barnes discloses that the straps include a buckle 23 for adjusting the strap length (see column 3, lines 25-30). The straps are used to connect the wrap to a supporting structure, such as a caregiver's shoulder or body.

Regarding claim 7, as broadly claimed by the applicant and as broadly defined in the applicant's specification for the present invention, the mating connector devices 16 as discloses and illustrated constitute a parachute clip.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the bag-type garment of Hazen to comprise adjustable length straps with mating connectors, as taught by Barnes, because both Hazen and Barnes teach the use of straps located around a structure for support of the baby garment. Barnes simply enhances the use of straps by providing length adjustability so that the structures about which the garment may be supported can be more versatile in size.

Further regarding claim 8, the devices of both Hazen and Barnes can be used by a child between the ages of 6 months and 36 months.

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9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Hazen in view of Barnes, as applied to claim 1 above, and further in view of Shao (6,421,852).

Hazen and Barnes disclose features as described above.

However, Hazen and Barnes fail to disclose a releasably attached pillow section.

Shao discloses a portable sleeping bag 1 comprising a sleeping bag 10 and a carrier 2.

Shao discloses that the carrier comprises a figure container 20 that may be used as a pillow (see column 4, lines 15-20). Shao further discloses that a fastener 40 may be used to detachably connect the carrier 2 from the sleeping bag (see column 3, lines 50-67 and Fig. 2).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the sleeping articles of either Hazen or Barnes to comprise the carrier and figure container that also functions as a pillow, as taught by Shao, because the addition of the carrier enhances the versatility of the invention by providing an attractive carrying pouch for the baby garment.

### ***Conclusion***

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Tanner (D154,222), Andrews (D267,284), McEntee (D304,256) and Kocivar (6,199,232) disclose features that are pertinent to the present application.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lisa M. Saldano whose telephone number is 703-605-1167. The examiner can normally be reached on Monday-Friday, 8:30am-5:30pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather C. Shackelford can be reached on 703-308-2978. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

lms



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